

Notice of Allowability

Application No.

10/767,558

Applicant(s)

SWANSON, BRIAN DOUGLAS

Examiner

David H. Kruse

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment filed 19 December 2006 and response to Rule 105 request filed 30 August 2006.

2. ☒ The allowed claim(s) is/are 1-30.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 8/30/2006

4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date SAME

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR § 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Lila A. T. Akrad on 8 November 2006.

The application has been amended as follows:

Claim 25 (Amended): A method of producing a maize plant [derived from the inbred line PH6WG, the method] comprising the steps of:

(a) growing a progeny plant produced by crossing the plant of claim 11 with a second maize plant;

(b) crossing the progeny plant with itself or a different plant to produce a seed of a progeny plant of a subsequent generation;

(c) growing a progeny plant of a subsequent generation from said seed and crossing the progeny plant of a subsequent generation with itself or a different plant; and

(d) repeating steps (b) and (c) for an additional 0-5 generations to produce a maize plant [derived from the inbred line PH6WG].

Claim 26 (Amended): The method of claim 25, wherein the produced maize plant [derived from the inbred line PH6WG] is an inbred maize plant.

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Claim 27 (Amended): The method of claim 26, further comprising the step of crossing the inbred maize plant [derived from the inbred line PH6WG] with a second, distinct inbred maize plant to produce an F1 hybrid maize plant.

Claim 28 (Amended): A method for developing a maize plant in a maize plant breeding program using plant breeding techniques [comprising employing a maize plant, or its parts, as a source of plant breeding material] comprising using the maize plant of claim 11, or parts thereof, as a source of said breeding material.

Claim 30 (Amended): [The] A method of [claim 29 wherein the] plant breeding [program technique comprises] comprising the steps of:

(a) obtaining [the] a molecular marker profile of maize inbred line PH6WG, representative seed of said line having been deposited under ATCC Accession No. PTA-4530,

(b) obtaining an F1 hybrid seed for which the maize plant [inbred line PH6WG] of claim 11 is a parent;

(c) [inducing doubled haploidy of the F1 hybrid seed to create progeny without the occurrence of meiotic segregation] crossing a plant grown from the F1 hybrid seed with a different maize plant; and

(d) selecting progeny that retain the molecular marker profile of PH6WG.

2. Applicant's/Assignee's response filed 30 August 2006 to the request for information under 37 CFR § 1.105 is acknowledged. The Examiner considers said response as fully responsive to the requirement.

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3. The following is an examiner's statement of reasons for allowance: Based on the information submitted in Applicant's/Assignee's response filed 30 August 2006 to the request for information under 37 CFR § 1.105, the Examiner has determined that the claims are free of the prior art. The rejection of claim 11 under 101 Statutory Double patenting is withdrawn in view of Applicant's arguments on page 6 of the Remarks filed 19 December 2005, and in view of the evidence provided on 30 August 2006, the Examiner recognizes the difference in scope of instant claim 11 and claim 2 of the issued patent.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

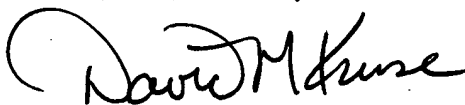
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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David H. Kruse, Ph.D. whose telephone number is (571) 272-0799. The examiner can normally be reached on Monday to Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached at (571) 272-0975. The central FAX number for official correspondence is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-1600.

DAVID H. KRUSE, PH.D.
PRIMARY EXAMINER



David H. Kruse, Ph.D.
9 November 2006

5. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.